IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 4TH OCTOBER 2007 / 12TH ASWINA 1929

Bail Appl..No. 5973 of 2007()

CRIME NO. 257/07 OFR KADUTHURUTHY POLICE STATION

PETITIONERS/ACCUSED

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1. BIJU, S/O.VIJAYAN, NEELIKULANGARA HOUSE, KARIKKODE, VELLOR, VAIKOM.

2. VINOD, S/O.JANAKI, PARAKANDATHIL HOUSE, TALAYOLAPARAMBU, VAIKOM.

BY ADV. SRI.DILIP MOHAN
SRI.N.HARIMOHAN

RESPONDENTS: STATE

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1. STATE OF KERALA, REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.

2. STATION HOUSE OFFICER, KADUTHURUTHY POLICE STATION.

BY PUBLIC PROSECUTOR SRI. JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 04/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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B.A.No. 5973 of 2007

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Dated this the 4th day of October, 2007

O R D E R

Application for anticipatory bail. The petitioners are accused 3 and 1 respectively. Altogether there are six accused. The second accused has already been arrested and later enlarged on bail. The petitioners face allegations in a crime registered under Sections 452 and 308 I.P.C. The defacto complainant was allegedly attacked by a group of miscreants. The alleged incident had taken place on the night of 4.9.2007. The defacto complainant is a taxi driver. In the F.I.R. no person is named. Subsequently the petitioners have been brought on the array of accused. Investigation is in progress. The petitioners apprehend imminent arrest.

2. The learned counsel for the petitioners submits that the allegations cannot inspire confidence at all. The averments in the F.I. statement lodged by the defacto complainant knocks the bottom out of the present allegations raised against the petitioners. In the F.I.

statement the allegation is only that four persons have committed the offence. Now it is alleged that six persons are involved in the offence. In the F.I. statement the victim/defacto complainant states in a forthright manner that he was not able to name the accused persons. On the immediate following day he narrates the names of the alleged miscreants. In the F.I. statement there is no specific motive alleged. But when the victim was interrogated later the theory advanced was that the taxi driver was called for to go for a criminal misadventure (koolithallu). The defacto complainant did not agree for that and that was the motive it is alleged.

3. The learned counsel for the petitioners submits that reading between the lines it must be easy for any prudent mind to note that the allegations require very careful and cautious scrutiny.

4. The learned Prosecutor does not oppose the application. I shall not venture to embark on a discussion on the acceptability of the allegations raised or the credibility of the data collected. Suffice it to say that I am persuaded to agree that this is a fit case where the petitioners deserve to be granted directions under Section 438 cr.P.C.

5. In the result:

(1) This application is allowed.

(2) The following directions are issued under Section 438 Cr.P.C.

(a) The petitioners shall surrender before the learned Magistrate on 10.10.2007 at 11 a.m. The learned Magistrate shall release the petitioners on regular bail on condition that they execute bonds for Rs.25,000/- (Rupees twenty five thousand only) each with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate.

(b) The petitioners shall make themselves available for interrogation before the Investigating Officer between 10 a.m. and 3 p.m. on 11.10.07 and 12.10.2007 and thereafter they shall appear on all Mondays and Fridays between 10 a.m. and 12 noon for a period of two months and subsequently as and when directed by the Investigating Officer in writing to do so.

(d) If the petitioners do not appear before the learned Magistrate as directed in clause (1) above, these directions shall lapse on 10.10.07 and the police shall be at liberty thereafter to arrest the petitioners and deal with them in accordance with law.

(b) If the petitioners were arrested prior to their surrender on 10.10.2007 as directed in clause (1) above, they shall be released on bail on

their executing bonds for Rs.25,000/- each without any surety undertaking to appear before the learned Magistrate on 10.10.2007.

(R. BASANT)
Judge

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